



CITY COUNCIL

CITY AND COUNTY OF HONOLULU

HONOLULU, HAWAII 96813-3077

COMMITTEE ON PLANNING

Voting Members:

Ikaika Anderson, Chair
Heidi Tsuneyoshi, Vice Chair
Michael Formby
Carol Fukunaga
Joey Manahan
Kymberly Marcos Pine

MINUTES

SPECIAL MEETING
MONDAY, MARCH 18, 2019

COUNCIL COMMITTEE MEETING ROOM
2ND FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813

Note: A copy of the video of the full proceedings of this meeting may be requested by calling the City Clerk's Office at 768-5822.

CALL TO ORDER

The special meeting of the Committee on Planning was called to order by Committee Chair Ikaika Anderson at 10:15 a.m. Voting Members Formby, Fukunaga, Manahan, and Tsuneyoshi were present at the meeting. Nonvoting member, Councilmember Menor (temporary voting member for quorum), also attended the meeting. Councilmember Pine was excused from the meeting.

STAFF PRESENT

Alan Texeira, Legislative Aide to Committee Chair Anderson
Lori Hiraoka, Attorney, Office of Council Services
Catherine Pligavko, Analyst, Office of Council Services
Molly A. Stebbins, Deputy Corporation Counsel, Department of the Corporation Counsel,
assigned to the Committee
Gail Uehara, Council Committee Aide, Office of the City Clerk

ORDER OF BUSINESS

At this juncture, Committee Chair Anderson announced that he would take up Item Nos. 1 and 2 together.

FOR ACTION

1. BILL 85 (2018) – COMMITTEE REPORT 68

LUO AMENDMENT RELATING TO VACATION RENTALS. Amending the Land Use Ordinance to further regulate vacation rentals.

The following amendment was posted on the agenda:

Proposed CD1 to Bill 85 (2018) (submitted by Councilmember Menor) – The proposed CD1 (OCS2019-0044/1/18/2019 3:34 PM) makes the following amendments:

A. In SECTION 2 of the bill:

1. Clarifies the writ of mandamus provisions in proposed new Section 21-2.150-2(e);
2. Clarifies and moves to a new SECTION 5 the provisions in proposed new Section 21-2.150-2(f) relating to the use of fines recovered for violations of ordinances dealing with TVUs and B&Bs;
3. Deletes the provision of proposed new Section 21-2.150-2(f) that purports to appropriate monies for the investigation and enforcement of the ordinances relating to TVUs and B&Bs; and
4. Deletes proposed new Section 21-2.150-2(g) relating to records.

B. Moves SECTION 3 of the bill relating to private enforcement to a new SECTION 4 of the bill.

C. Adds new SECTIONS 3 and 6 of the bill, respectively, to:

1. Add a new Section 21-2.150-3 to impose advertising requirements on B&B and TVU owners, operators, or proprietors by requiring that TVUs and B&Bs for which an NUC is required must list the NUC number and street address of the TVU or B&B in all

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advertisements, and advertisements for TVUs located in the Resort District, the Resort Mixed Use Precinct of the Waikiki Special District, or the A-2 Medium Density Apartment District pursuant to Section 21-5.640(a) must list the street address; and

2. Make conforming amendments to Table 21-3 ("Master Use Table").
- D. Amends and moves the hosting platform reporting provisions from original SECTION 4 of the bill to renumbered SECTION 11 of the bill.
 - E. Adds new SECTIONS 7 and 8 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-2.150-3.
 - F. Deletes the original SECTIONS 6 and 7 of the bill relating to the definitions of "transient vacation unit," "hosting platform," and "neighbor," and amends and moves relevant definitions to new Sections 21-2.150-3 and 41-____.1.
 - G. Adds new SECTIONS 9 and 10 to the bill, amending, respectively, Section 21-5.640 and Table 21-9.6(A) to make TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, or A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.640 subject to the advertising requirements in proposed new Section 21-2.150-3.
 - H. Adds a new SECTION 11 to the bill to add a new article to Chapter 41 to regulate hosting platforms.
 - I. Adds a new uncodified SECTION 12 to the bill to require that the DPP, no later than six months after the effective date of the ordinance:
 1. Establish and implement specific procedures, including a public telephone hotline, by which the public may submit written or verbal complaints and investigation requests to the department regarding potential violations of applicable laws regarding B&Bs and TVUs;
 2. Establish and implement specific procedures by which the DPP investigates public complaints in a timely manner, efficiently obtains evidence pursuant to the investigations, and notifies the complaining parties of the status and results of the investigation; and

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3. Conduct community outreach to educate the public regarding the complaint and investigative process.
 - J. Adds a new uncodified SECTION 13 to the bill to require the DPP, no later than 10 days after receipt of the hosting platform monthly reports, provide to the Council a breakdown, by Council district, of the total number of B&B and TVU listings in the immediately prior month. Renumbers subsequent SECTIONS.
 - K. In renumbered SECTION 14 of the bill, conforms to the standard form of instructions to the Revisor of Ordinances, and adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
 - L. Adds a severability clause as new SECTION 15 of the bill. Renumbers subsequent SECTIONS.
 - M. Makes miscellaneous and nonsubstantive amendments.
2. BILL 89 (2018) – COMMITTEE REPORT 69

LUO AMENDMENT RELATING TO SHORT-TERM RENTALS. Amending the Land Use Ordinance to regulate short-term rentals and protect residential neighborhoods from impacts of illegal transient vacation rentals.

The following three amendments were posted on the agenda:

PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Anderson) – The CD1 (OCS2019-0253/3/12/2019 3:51 PM) makes the following amendments:

THE PROPOSED CD1 makes the following amendments:

- A. Clarifies the language in the "Findings and Purpose" clause in SECTION 1 of the bill.
- B. Deletes SECTION 2 of the bill, containing the real property tax provisions. Renumbers subsequent bill SECTIONS accordingly.
- C. In renumbered SECTION 3 of the bill, corrects Section 21-2.150-2 to reflect the current language of the section. Reformats the proposed amendments to the section.

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- D. In Section 21-2.150-2(c)(1)(D), increases the daily penalty from \$1,000 to \$5,000.
- E. Revises new Section 21-2.150-2(c)(2) to decrease the penalties as follows:
 - 1. For the first recurring violation, from \$25,000 and \$25,000 per day to \$10,000 and \$10,000 per day;
 - 2. For the second recurring violation, from \$50,000 and \$50,000 per day to \$20,000 and \$20,000 per day; and
 - 3. For the third recurring violation, from \$100,000 and \$100,000 per day to \$50,000 and \$50,000 per day.
 - 4. Provides that the DPP Director may not negotiate any reduction in the fines imposed under subdivision (2).
- F. In SECTION 4 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-3 ("Master Use Table").
- G. In Table 21-3 ("Master Use Table"):
 - 1. Deletes the proposed expansion of the TVU use beyond the Resort District and A-2 Medium Density Apartment District, where they are currently permitted, and makes conforming amendments throughout the bill;
 - 2. Permits B&Bs (subject to the conditions in Article 5) in the AG-2 General Agricultural District and Country District.
 - 3. Revises the designation for bed and breakfast homes and transient vacation units in the resort district from "P" to "P/c", so that the advertising requirements apply to all short term rentals.
- H. Adds new SECTIONS 5 and 6 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-5.__(c). Renumbers subsequent bill SECTIONS accordingly.

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- I. In renumbered SECTION 7 of the bill, adds a provision in proposed new Section 21-5.__(b)(1) to require any dwelling unit used as a bed and breakfast home to be registered with the DPP, and to clarify that the term "owner or operator" includes the trustee of a revocable trust that owns the property.
- J. In renumbered Section 21-5.__(b)(1)(D), in addition to a real property tax home exemption, requires that an applicant for registration of a B&B must have a minimum 50 percent ownership interest in the subject property.
- K. In renumbered Section 21-5.__(b)(1)(E), decreases the B&B initial registration fee from \$800 to \$100.
- L. Adds proposed new Sections 21-5.__(b)(1)(J), 21-5.__(b)(2)(I), and 21-5.__(b)(3)(K) to require that if a B&B is located in the AG-2 general agricultural district, the portion of the subject property that is not being used as a residential homesite area (as defined in Section 8-7.3(a)) must be currently dedicated for a specific agricultural use pursuant to Section 8-7.3.
- M. In renumbered Section 21-5.__(b)(2), clarifies that the term "owner or operator" includes the trustee of a revocable trust that owns the property.
- N. In renumbered Section 21-5.__(b)(2)(E), increases the B&B registration renewal fee from \$200 to \$2,000.
- O. In proposed new Section 21-5.__(b)(3)(A), replaces the term "roomers" with the phrase "renters of the detached dwelling other than the bed and breakfast home guests."
- P. In proposed new Section 21-5.__(b)(3)(I), provides that the total number of B&Bs permitted in each development plan area (excluding those in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and certain A-2 Apartment Districts) is limited to no more than one percent of the total number of dwelling units in that development plan area. Provides that the DPP Director shall adopt rules to implement and administer any lottery.
- Q. Adds a new Section 21-5.__(b)(7), which exempts from the requirements of the subsection B&Bs operating under valid nonconforming use certificates pursuant to Section 21-4.110-2. These B&Bs will be allowed to continue to operate under their nonconforming use certificates.

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- R. Moves the advertisement provisions in SECTION 10 of the bill to new Section 21-5.__(c) in renumbered SECTION 7.
- S. In proposed new Section 21-5.__(c)(1), clarifies the definitions of "advertisement" and "person."
- T. In proposed new Section 21-5.__(c)(2)(A), provides that advertisements for B&Bs and TVUs must include the registration number or nonconforming use certificate number for that B&B or TVU; and that advertisements for B&Bs or TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and the A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.__(a) must include the street address, including, if applicable, any apartment unit number, for that B&B or TVU.
- U. Deletes former proposed Section 40-__.3(c) relating to an exemption from advertising requirements for legally established short-term rentals in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment Zoning District.
- V. Clarifies the exemptions in new Section 21-5.__(c)(3).
- W. In renumbered SECTION 9 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-6.1 ("Off-street Parking Requirements"). Also clarifies that for B&Bs, one off-street parking space is required for each guest bedroom. Deletes the transient vacation unit entry because TVUs in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment District; and TVUs operating under valid nonconforming use certificates are exempt from the parking requirements.
- X. Moves the revisions to the footnotes for Tables 21-6.1, 21-6.2, and 21-6.3 to a new SECTION 10 of the bill. Renumbers subsequent bill SECTIONS accordingly. Amends proposed new footnote 7 to also exclude B&Bs operating under valid nonconforming use certificates pursuant to Section 21-4.110-2. Adds new footnote 8 to clarify that the requirement of one off-street parking per guest bedroom for bed and breakfast homes is in addition to the off-street parking requirement applicable to the dwelling unit being used as a bed and breakfast home.

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- Y. In renumbered SECTION 11 of the bill, amends Table 21-9.6(A) ("Waikiki Special District Precinct Permitted Uses and Structures"):
 - 1. To add B&Bs as a proposed new permitted use, subject to conditions, in the Apartment Precinct of the Waikiki Special District; add B&Bs as a permitted use, subject to conditions, in the Resort Mixed Use Precinct; and revise the designation for TVUs in the Resort Mixed Use Precinct from "P" to "P/c," so that the advertising requirements apply to all short-term rentals.
 - 2. To add the following to the "Ministerial uses" note to the table:

"P/c = Permitted use subject to standards in Article 5"
 - Z. Adds a new SECTION 12 to the bill to regulate hosting platforms pursuant a new article under ROH Chapter 41 ("Regulated Activities Within the City").
 - AA. Adds a new uncodified SECTION 13 to the bill, providing that TVUs and B&Bs operating under valid nonconforming use certificates on the effective date of the ordinance may continue to operate pursuant to the TVU/B&B nonconforming use certificate ordinances. Renumbers subsequent SECTIONS accordingly.
 - BB. In renumbered SECTION 14 of the bill, adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
 - CC. Adds a severability clause as new SECTION 15 of the bill. Renumbers subsequent SECTIONS.
 - DD. Makes miscellaneous technical and nonsubstantive amendments.
- PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Menor) – The CD1 (OCS2019-0085/1/31/2019 9:15 AM) makes the following amendments:
- A. Clarifies the language in the "Findings and Purpose" clause in SECTION 1 of the bill.
 - B. In SECTION 2 of the bill, sets forth the entire Section 8-7.1(c) in the bill.

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- C. In SECTION 4 of the bill, corrects Section 21-2.150-2 to reflect the current language of the section. Reformats the proposed amendments to the section.
- D. In SECTION 5 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-3 ("Master Use Table").
- E. In Table 21-3 ("Master Use Table") permits B&Bs (subject to the conditions in Article 5) in the AG-2 General Agricultural District; and revises the designation for bed and breakfast homes and transient vacation units in the resort district from "P" to "P/c", so that the advertising requirements apply to all short term rentals.
- F. Adds new SECTIONS 6 and 7 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-5.__(c). Renumbers subsequent bill SECTIONS accordingly.
- G. In renumbered SECTION 8 of the bill, adds a provision in Section 21-5.__(b)(1) to require any dwelling unit used as a bed and breakfast home or transient vacation unit to be registered with the DPP.
- H. In proposed new Section 21-5.__(b)(3)(A), replaces the term "roomers" with the phrase "renters of the detached dwelling other than the bed and breakfast home guests."
- I. In proposed new Section 21-5.__(b)(3)(I), provides that the DPP Director shall adopt rules to implement and administer any lottery.
- J. Adds a new Section 21-5.__(b)(7), which exempts from the requirements of the subsection TVUs and B&Bs operating under valid nonconforming use certificates pursuant to Sections 21-4.110-1 or 21-4.110-2. These TVUs and B&Bs will be allowed to continue to operate under their nonconforming use certificates.
- K. Moves the advertisement provisions in SECTION 10 of the bill to new Section 21-5.__(c) in renumbered SECTION 8.

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- L. In proposed new Section 21-5.__(c)(1), clarifies the definitions of "advertisement" and "person."
- M. In proposed new Section 21-5.__(c)(2)(A), provides that advertisements for B&Bs and TVUs must include the registration number or nonconforming use certificate number for that B&B or TVU; and that advertisements for B&Bs or TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and the A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.__(a) must include the street address, including, if applicable, any apartment unit number, for that B&B or TVU.
- N. Deletes former proposed Section 40-__.3(c) relating to an exemption from advertising requirements for legally established short-term rentals in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment Zoning District.
- O. Clarifies the exemptions in new Section 21-5.__(c)(3).
- P. In renumbered SECTION 10 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-6.1 ("Off-street Parking Requirements"). Also clarifies that for B&Bs, one off-street parking space is required for each guest bedroom.
- Q. Moves the revisions to the footnotes for Tables 21-6.1, 21-6.2, and 21-6.3 to a new SECTION 11 of the bill. Renumbers subsequent SECTIONS accordingly. Amends proposed new footnote 7 to also exclude TVUs and B&Bs operating under valid nonconforming use certificates pursuant to Sections 21-4.110-1 or 21-4.110-2. Adds new footnote 8 to clarify that the requirement of one off-street parking per guest bedroom for bed and breakfast homes is in addition to the off-street parking requirement applicable to the dwelling unit being used as a bed and breakfast home.
- R. In renumbered SECTION 12 of the bill, amends Table 21-9.6(A) ("Waikiki Special District Precinct Permitted Uses and Structures"):
 - 1. To add B&Bs and TVUs as a proposed new permitted use, subject to conditions, in the Apartment Precinct of the Waikiki Special District; add B&Bs as a permitted use, subject to conditions, in the Resort Mixed Use

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Precinct; and revise the designation for TVUs in the Resort Mixed Use Precinct from "P" to "P/c," so that the advertising requirements apply to all short-term rentals.

2. To add the following to the "Ministerial uses" note to the table:

"P/c = Permitted use subject to standards in Article 5"

- S. Adds a new uncodified SECTION 13 to the bill, providing that TVUs and B&Bs operating under valid nonconforming use certificates on the effective date of the ordinance may continue to operate pursuant to the TVU/B&B nonconforming use certificate ordinances. Renumbers subsequent SECTIONS accordingly.
- T. In renumbered SECTION 14 of the bill, adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
- U. Makes miscellaneous technical and nonsubstantive amendments.

PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Fukunaga [b/r]) – The CD1 (OCS2019-0251/3/12/2019 4:06 PM) makes the following amendments:

- A. In the last paragraph of the "Findings and Purpose" clause in SECTION 1 of the bill, adds that the ordinance requires transient accommodations brokers to register with the City and provide aggregated data on listings and booked room nights to the City.
- B. In Section 21-2.150-2(b)(1)(E), decreases the penalties for recurring violations of the LUO relating to TVUs or B&Bs to:
 - 1. For the first recurring violation, from \$25,000 and \$25,000 per day to \$10,000 and \$10,000 per day;
 - 2. For the second recurring violation, from \$50,000 and \$50,000 per day to \$15,000 and \$15,000 per day; and
 - 3. For the third recurring violation, from \$100,000 and \$100,000 per day to \$25,000 and \$25,000 per day.

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- C. Adds a new Section 21-2.150-2(f), which provides that the DPP director may issue subpoenas to inspect the guest registry required to be maintained by the owner of a B&B or TVU.
- D. In Table 21-3 ("Master Use Table"), permits (subject to conditions in Article 5) TVUs in the residential districts (R-20, R-10, R-7.5, R-5, and R-3.5).
- E. In Sections 21-5.__(b)(1)(iv) and 21-5.__(b)(2)(iv), requires a real property tax home exemption for B&Bs only.
- F. In Sections 21-5.__(b)(1)(vi) and 21-5.__(b)(2)(vi), requires that the property insurance may be provided by the transient accommodations broker with which the B&B or TVU is listed for rental.
- G. In Section 21-5.__(b)(3)(ii), provides for a maximum of four guests over the age of 18 years permitted within the B&B at any one time.
- H. In Section 21-5.__(b)(3)(v), provides that the property manager is responsible for responding to complaints or problems at the property.
- I. In Section 21-5.__(b)(3)(ix), provides that:
 - 1. The total number of B&Bs and TVUs permitted in each development plan area (excluding those in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and certain A-2 Apartment Districts) is limited to no more than one and one-half percent (instead of one-percent) of the total number of dwelling units in that development plan area.
 - 2. Provides that if the initial number of applications exceeds the one and one-half percent amount, acceptance will be determined by the DPP under criteria contained in rules adopted by the DPP.
 - 3. Provides that when renewal applications fall below the one and one-half percent amount, new applicants can be accepted by the DPP under criteria contained in rules adopted by the DPP.

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4. Provides that the number of permits allowed in each development plan area may only be increased a minimum of once every ten years upon the DPP's receipt of updated U.S. Census data showing an increase in the number of dwelling units in the development plan area.
- J. Adds a new Section 21-5.__(b)(7), which provides that the guest registry is subject to inspection upon issuance of a subpoena by the DPP director in accordance with law, and prohibits the director from disclosing information that would constitute an invasion of personal privacy.
- K. Decreases the fines for violation of the advertising provisions from not less than \$25,000 and not more than \$50,000 per day for each day that the advertisement is on public display beyond seven days from receiving a notice of violation, to not less than \$10,000 and not more than \$15,000 per day.
- L. Adds a new SECTION 11 to the bill to regulate transient accommodations brokers pursuant a new article under ROH Chapter 41 ("Regulated Activities Within the City"). Renumbers subsequent SECTIONS.
- M. Makes miscellaneous technical and nonsubstantive amendments.

The following amendment was circulated at the meeting:

PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Pine) – The CD1 (CC-93) makes the following amendments:

1. The proposed revisions delete the existing Section 12 re Hosting Platforms (originally from Bill 85) and replace it with language we believe will strengthen enforceability and compliance under the federal Communications Decency Act (CDA) and Stored Communications Act (SCA):

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Under the CDA, a hosting platform cannot be held accountable as a publisher or speaker of the content posted by users on its website or for the conduct of its users — it can only be held accountable for its own conduct. CD1 makes hosting platforms responsible for verifying that its users comply with the LUO. This creates potential enforceability issues under the CDA. Our proposed revisions make hosting platforms accountable only for their own conduct: collecting booking fees on illegal rentals. This is based on the San Francisco model, which was also adopted in Santa Monica and just upheld by the Ninth Circuit.

The SCA prevents disclosures by platforms of user information without the users' consent. CD1 provides for limited reporting without host or platform consent (it is not entirely clear what is intended to be included in the reports) and appears to require a subpoena or other administrative process to obtain more detailed host information including names, addresses, etc. The proposed revisions create a registration process by which hosting platforms agree to disclose key information about hosts and their rental units (host names, addresses, etc.) and also agree to get the hosts' consent to the disclosures. The consent and disclosure provisions in the proposed revisions are critical to obtaining information needed for enforcement while also complying with the SCA and 4th Amendment. Note: the recent New York ruling that struck down similar reporting requirements on 4th Amendment grounds is distinguishable because, in that case, the hosting platforms themselves had not consented to the disclosures;

2. The proposed revisions add a registration fee for hosting platforms, in an amount to be determined, per your request (see Section 41-___4, p. 24);
3. The proposed revisions delete the distinction between bed and breakfast homes used for less than 30 days per calendar year and bed and breakfast homes used for 30+ days per calendar year in order to close a potential loophole; and
4. The proposed revisions make minor changes to the introduction to conform it to the substance of the bill.

Administration/Others

Kirk Caldwell, Mayor, City and County of Honolulu
Katia Balassino, Chief Planner, Land Use Permits Division, Department of
Planning and Permitting (DPP)

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Mayor Caldwell testified in support of the intent of both measures and thanked the Councilmembers for their efforts to better regulate short-term rentals. The Mayor also commented on the need for fairness and balance, and provided remarks on the following associated issues:

- The short-term rental impact on neighborhoods and the affordable housing supply.
- The airline capacity or “lift factor”.
- The use of technology to enforce laws.
- The establishment of two new real property tax classifications for equity purposes versus a flat fee for registration.

Committee Chair Anderson explained his posted proposed CD1 to Bill 89 (2018) and commented that it is intended to balance competing views associated with short-term rentals. He added that his version offers an opportunity for limited additional permitting to owner-occupied bed and breakfast units along with strict enforcement, and requires a valid permit number be listed on all forms of advertisement.

Councilmember Menor explained his posted proposed Bill 85 (2018), CD1. He noted that the enforcement provisions in his version were patterned after the same process that was followed in San Francisco which significantly reduced the number of short-term rentals and withstood legal challenge. The Councilmember also thanked the Committee Chair for including the same enforcement provisions in his proposed CD1 version to Bill 89 (2018).

Councilmember Menor also explained his posted proposed Bill 89 (2018), CD1, noting a key amendment that permits bed and breakfast home operations in the AG-2 General Agricultural District.

Committee Member Fukunaga explained that her posted proposed Bill 89 (2018), CD1 was submitted for discussion purposes and supported by the Airbnb advocates.

Chief Planner Balassino testified in agreement with the registration process, higher fines, enforcement, and advertising requirement components in the various CD1 versions. She also expressed three primary concerns as follows:

- The removal of two new real property tax classifications.

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- The expansion of transient vacation units to appropriate zoning districts.
- The additional requirements for certain uses in Waikiki that already have entitlement.

The following individuals testified:

1. Robert Meyer (comments Bill 85 [2018]; support Bill 89 [2018])
2. Joli Tokusato, UNITE HERE! Local 5 (support Bill 85 [2018] and Bill 89 [2018])
3. Mike Dixon (oppose Bill 85 [2018] and Bill 89 [2018])
4. Kekoa McClellan, The American Hotel and Lodging Association (support Bill 85 [2018] and Bill 89 [2018])
5. Scott Robinson (support Bill 85 [2018]; comments Bill 89 [2018])
6. Neil Frazer, Frazer-Frantz Family Hui (support Bill 85 [2018] and Bill 85 [2018], CD1; oppose Bill 89 [2018])
7. Ursula Retherford (support Bill 85 [2018], CD1; oppose Bill 89 [2018])
8. Tina Tolentino (support Bill 85 [2018] and Bill 89 [2018])
9. Will Caron, Hawaii Appleseed Center for Law and Economic Justice (support Bill 85 [2018] and Bill 89 [2018])

In response to an inquiry, Mr. Caron agreed to submit to the Council their interpretation on the recent Ninth Circuit Court of Appeals decision.

10. Chester Corpuz (support Bill 85 [2018])
11. Maria Cainguitan (support Bill 85 [2018] and Bill 89 [2018])
12. Quinten Nishime (comments Bill 85 [2018] and Bill 89 [2018])
13. Geogietta K. Chock (oppose Bill 89 [2018])
14. Geoffrey S. Lewis (support Bill 89 [2018], CD1 Councilmember Fukunaga)
15. Catherine Graham (comments Bill 85 [2018])
16. William Page (support Bill 89 [2018], CD1 Councilmember Fukunaga except one and half percent too low)
17. David M. Louie, Kobayashi Sugita & Goda (comments Bill 85 [2018]; oppose Bill 89 [2018], CD1)

In response to inquires, Mr. Louie stated that he would look into the requirements needed to advertise on the Airbnb site and confirmed that Airbnb does provide booking services as defined in the Bill.

18. Mufi Hannemann, Hawaii Lodging & Tourism Association and Hawaii Tourism Association (support Bill 85 [2018], CD1; support Bill 89 (2018) and Bill 89 [2018], CD1 by Councilmembers Anderson and Pine)

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19. Ann Otterman (comments Bill 89 [2018])
20. Scott Brazwell (oppose Bill 85 [2018] and Bill 89 [2018])
21. Martine Aceves-Foster (oppose Bill 89 [2018])
22. Mark Anchor Albert (comments Bill 89 [2018])
23. Sal Recca (comments Bill 89 [2018])
24. Doug Miller (oppose Bill 85 [2018] and Bill 89 [2018])
25. Ken Middleton (oppose Bill 85 [2018] and Bill 89 [2018]; comments Bill 89 [2018], CD1 Councilmember Fukunaga)
26. Mara Miller (support Bill 85 [2018] and Bill 89 [2018] except decrease in fines)
27. Leana Berwick (comments Bill 89 [2018])
28. Mary Lavoie-Olson (comments Bill 85 [2018] and Bill 89 [2018])
29. Laura Adolpho (comments Bill 89 [2018] and Bill 89 [2018], CD1 Councilmember Fukunaga)
30. Amanda Russell (oppose Bill 89 [2018])
31. Kent Cole (oppose Bill 85 [2018] and Bill 89 [2018])
32. Lawrence Bartley, Save Oahu's Neighborhood (support Bill 85 [2018] and oppose Bill 89 [2018])
33. Stephanie Fitzpatrick (support Bill 85 [2018] and Bill 89 [2018], CD1 Councilmember Fukunaga)

At this juncture, Committee Chair Anderson appointed Councilmember Menor a temporary voting member for quorum.

34. Erik Kloninger (comments Bill 89 [2018])
35. Lucinda Pyles (support Bill 85 [2018])
36. Hector Eurejian (oppose Bill 85 [2018] and Bill 89 [2018])
37. Steven Yamashiro, HI Good Neighbor (support Bill 85 [2018]; oppose Bill 89 [2018]; comments Bill 89 [2018], CD1 Councilmember Anderson)
38. Jose Jube (oppose Bill 85 [2018] and Bill 89 [2018])
39. Isabela Jube (oppose Bill 85 [2018] and Bill 89 [2018])
40. Ivan Lui-Kwan, Hilton Hawaiian Village (support Bill 89 [2018])
41. Terry Lodge (oppose Bill 85 [2018] and Bill 89 [2018])
42. Assaf Karmon (oppose Bill 89 [2018])
43. Charles Defrancis (oppose Bill 85 [2018] and Bill 89 [2018])
44. Cleo Mckeague (support Bill 85 [2018])
45. Robert Wright (oppose Bill 89 [2018])
46. Ricky Cassiday (comments Bill 85 [2018] and Bill 89 [2018])
47. Joele Gobran (oppose Bill 89 [2018])
48. Doris Cole (oppose Bill 89 [2018])
49. Charles Gray (support Bill 85 [2018], CD1 comments Bill 89 [2018])
50. Jim DiCarlo (comments Bill 89 [2018])

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51. Alorah Kwock (comments Bill 89 [2018], CD1 Councilmember Fukunaga)
52. Laurie Vottamm (comment Bill 89 [2018])
53. Theresa Harden (oppose Bill 85 [2018] and Bill 89 [2018])
54. Denise Boisvert (support Bill 89 [2018])
55. Allison Petterson, Oahu Alternative Lodging Association (support Bill 89 [2018], CD1 Councilmember Fukunaga)
56. Joleen Jackson (oppose Bill 89 [2018])
57. Brynn Rovito (support Bill 89 [2018], CD1 Councilmember Fukunaga)
58. Tonic Bille (support Bill 85 [2018] and Bill 89 [2018])
59. Harald von Sydow (oppose Bill 85 [2018] and Bill 89 [2018])

In response to inquiries, Chief Planner Balassino stated that the DPP would work with the Department of Budget and Fiscal Services to provide the Council with information on the number of properties that pay General Excise Taxes and Transient Accommodation Taxes.

A discussion ensued regarding the DPP's decision-making process to determine short-term rental registration priorities.

RECESS / RECONVENE

Committee Chair Anderson called for a recess at 3:06 p.m. and reconvened the meeting at 3:25 p.m.

The Committee Chair requested the members' sentiments on the proposed versions for Bill 89 (2018).

Committee Member Fukunaga offered her comments.

Committee Member Tsuneyoshi explained that although she does not support expanding transient vacation units, she viewed the Committee Chair's version as a compromise.

Committee Member Manahan stated his preference for separate measures to address enforcement and permitting of short-term rentals. He also added his support for the Committee Chair's version.

Committee Member Formby expressed interest in Committee Member Fukunaga's version, but would support the Committee Chair's version to move the measure forward, and work on offering future amendments.

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After hearing from the members, Committee Chair Anderson recommended that Bill 89 (2018) be amended to his posted proposed CD1 version and reported out for second reading and scheduling of a public hearing.

Committee Member Fukunaga voiced her support for the Committee Chair's recommendation. She also suggested a one-year delay on the effective date for permitting to allow the enforcement side to proceed first.

Councilmember Menor emphasized that the Committee Chair's version also includes the same hosting platform enforcement provisions as his Bill 85 (2018), CD1 to address illegal vacation rental issues.

Bill 89 (2018) amended to CD1 (OCS2019-0253/3/12/2019 3:51 PM) and reported out for second reading and scheduling of a public hearing.

AYES: FORMBY, FUKUNAGA, MANAHAN, TSUNEYOSHI,
ANDERSON – 5.

NOES: None.

EXCUSED: PINE – 1.

Committee Chair Anderson explained that in his discussions with the Administration, including the enforcement and permitting mechanisms in the same bill was preferred. However, he would like to hear from the members on their sentiments.

Committee Member Manahan voiced his support to move the two measures forward for discussion.

Committee Chair Anderson recommended that Bill 85 (2018) be amended to the posted proposed CD1 and reported out for second reading and scheduling of a public hearing.

Bill 85 (2018) amended to CD1 (OCS2019-0044/1/18/2019 3:34 PM) and reported out for second reading and scheduling of a public hearing.

AYES: FORMBY, FUKUNAGA, MANAHAN, TSUNEYOSHI,
ANDERSON – 5.

NOES: None.

EXCUSED: PINE – 1.

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Related communications:

MM-152 (2018) Office of the Mayor, transmitting draft Bill 89 (2018).
M-117 Early testimony for Bill 85 (2018).
M-118 Early testimony for Bill 89 (2018).
M-121 Additional testimony for Bill 85 (2018).
M-122 Additional testimony for Bill 89 (2018).

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:41 p.m.

Respectfully submitted,

GLEN I. TAKAHASHI
City Clerk

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DATE APPROVED

April 23, 2019